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*Attorneys for Applicants
Sakura Miyawaki, et al.*

UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA

SAN JOSE DIVISION

In re Ex Parte Application of

Sakura Miyawaki, Chae-won Kim,
Jennifer Yunjin Huh, Kazuha Nakamura,
and Eun-chae Hong,

Applicants.

) CASE NO. 5:24-mc-80132
)
) **DECLARATION OF MUN HUI**
,) **KIM IN SUPPORT OF**
) **APPLICANTS' *EX PARTE***
) **APPLICATION FOR AN ORDER**
) **PURSUANT TO 28 U.S.C. § 1782**
) **AUTHORIZING DISCOVERY FOR**
) **USE IN A FOREIGN**
) **PROCEEDING**
)

I, Mun Hui Kim, declare that:

1. I am an attorney licensed to practice law in the Republic of Korea ("Korea") since 2005. I am a Partner at Yulchon LLC, a law firm in Seoul, Korea. I have personal knowledge of the matters stated herein, unless expressly stated otherwise.

1 2. I submit this declaration in support of the Applicants' *Ex Parte* Application for an
 2 Order Pursuant to 28 U.S.C. § 1782 Authorizing Discovery for Use in a Foreign Proceeding
 3 ("Application").

4 3. SOURCE MUSIC Co., Ltd. ("SOURCE MUSIC"), a corporation established
 5 under the laws of Korea, retained Yulchon to represent them in this matter. I also advised
 6 SOURCE MUSIC about filing a criminal complaint in Korea against anonymous persons
 7 associated with the YouTube handles "@issuefeed" and "@shortchajang" (collectively, the
 8 "YouTubers").

9 4. On the YouTube platform, the YouTubers published a number of videos
 10 containing false, defamatory and/or harassing statements about the Applicants.¹ I have reviewed
 11 the videos at issue in their original Korean language form and the Declaration of Mi Gyeong Koo,
 12 who further describes some of them. I agree with Mi Gyeong Koo that the words and expressions
 13 used by the YouTubers appear to indicate that they are both native Korean speakers and are in
 14 Korea. I also agree that there is nothing to indicate that either one of them is a non-Korean citizen
 15 or that they are residing outside of Korea.

16 5. On May 31, 2024, the Applicants filed a criminal complaint against the
 17 YouTubers with the Seoul Yongsan Police Station in Korea for defamation pursuant to Article 70,
 18 Paragraph 2 of the Act on Promotion of Information and Communications Network Utilization
 19 and Information Protection and for the crime of insult pursuant to Article 311 of the Korean
 20 Criminal Act ("Criminal Matter"). I am the attorney of record for the Applicants in the Criminal
 21 Matter.

22 6. Article 70, Paragraph 2 of the Act on Promotion of Information and
 23 Communications Network Utilization and Information Protection ("정보통신망 이용촉진 및
 24 정보보호 등에 관한 법률" in the original Korean language) states:²

25
 26 1 Like in the US, under Korean law an individual cannot defame, harass or otherwise make false allegations against
 27 another.
 28 2 English translation provided by Korea Legislation Research Institute available at
<https://www.law.go.kr/LSW/lsInfoP.do?lsSeq=176679&viewCls=engLsInfoR&urlMode=engLsInfoR&chrClsCd=010203#EJ70:0>.

1 *A person who commits defamation of another person by disclosing a false fact
2 to the public through an information and communications network purposely
3 to disparage his or her reputation shall be punished by imprisonment with
4 labor for up to seven years, by suspension of qualification for up to ten years,
5 or by fine not exceeding 50 million won.*

6 7. Article 311 of the Korean Criminal Act (“형법” in the original Korean language)
7 states:³

8 *A person who publicly insults another shall be punished by imprisonment with
9 or without labor for not more than one year or by a fine not exceeding two
10 million won.*

11 8. Through discovery, the Applicants are trying to identify these anonymous
12 individuals by obtaining basic information (e.g., name, date of birth, gender, address, etc.)
13 regarding the accounts linked to the YouTubers’ handles.

14 9. In the event the YouTubers have not provided their personally identifiable
15 information (“PII”) in the said accounts, I am informed and believe that the access logs of the
16 YouTubers’ accounts may be critical to identifying the YouTubers. The access logs should contain
17 the dates, times, internet protocol addresses (“IP addresses”), and port numbers relating to the
18 YouTubers’ accesses to the YouTube accounts and/or channels. In the event the Applicants have
19 to identify the YouTubers through the internet service provider (“ISP”), IP address, port number
20 and timestamp are essential information. Without the timestamp and the port number, the ISP will
21 not be able to track the individuals using the IP address.

22 10. I am informed and believe that the port number and timestamp do not contain
23 substantial private information, such as the websites the YouTubers have accessed, or the content
24 of any communications. The Applicants are not seeking any communications or the content of any
25 private communications through their Application.

26 11. Google LLC (“Google”) is not a party to the Criminal Matter. Since the
27 Applicants seek information held by Google in the United States (“U.S.”),⁴ it is beyond the reach

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³ English translation provided by Korea Legislation Research Institute available at
<https://www.law.go.kr/LSW/engLsSc.do?section=&menuId=1&subMenuId=21&tabMenuId=117&eventGubun=060101&query=%ED%98%95%EB%B2%95#>.

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⁴ Google’s principal office is located at 1600 Amphitheatre Parkway, Mountain View, California 94043; attached as
Exhibit 1 is a true and a correct copy of the Statement of Information of Google filed on September 7, 2023
30 obtained from the California Secretary of State.

1 of the jurisdiction of the Korean courts.

2 12. As an experienced attorney in Korea, I am aware that Korean courts are receptive
3 to receiving the U.S. federal courts' assistance in discovery, including through Section 1782.

4 13. However, I am not aware of any restrictions under Korean law that would limit or
5 prevent the U.S. federal courts from assisting the Applicants to obtain evidence to identify the
6 YouTubers for use in a Korean court proceeding.

7 14. Additionally, I am not aware of any restrictions under Korean law that would
8 limit or otherwise prevent the Applicants from gathering evidence under Section 1782 in the
9 manner proposed and for the reasons stated in the Application.

10 15. The Applicants are not attempting to circumvent any foreign proof-gathering
11 restrictions or policies of Korea or the U.S. Based on my experience and knowledge, the
12 information about the YouTubers is admissible in Korean court proceedings.

13 16. While I am aware that there are certain discovery methods available to Korean
14 criminal authorities to seek discovery through international treaties, there is nothing the Applicants
15 as private citizens can do to compel the criminal authorities to take such measures. More
16 importantly, Section 1782 clearly allows for interested persons, like the Applicants, to seek limited
17 discovery through Section 1782 and I am not aware of any requirement under Korean law that the
18 Applicants wait for the criminal authorities to seek discovery through international treaties, like
19 the US-Korea Mutual Legal Assistance in Criminal Matters Treaty that was signed in 1993 and
20 went into force in 1997 ("MLAT"),⁵ before seeking Section 1782 discovery.

21 17. Based upon the foregoing, the information and documents sought from Google is
22 critical to the Applicants' criminal case in Korea and the proposed subpoena is narrowly tailored
23 and limited to seek information necessary to identify the anonymous YouTubers against whom the
24 criminal case is filed. I am informed and believe that Google maintains the requested information
25 in its regular course of business.

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28 ⁵ See the US Department of State website which contains a brief description along with the MLAT and its Annex
and Exchange of Notes, available at <https://www.state.gov/97-523/> (last viewed May 31, 2024).

1 Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury under the laws of the
2 United States of America that the foregoing is true and correct.

3 Executed on May 31, 2024
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5 /s/ Mun Hui Kim
6 MUN HUI KIM
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STATE OF CALIFORNIA
Office of the Secretary of State
STATEMENT OF INFORMATION
LIMITED LIABILITY COMPANY

California Secretary of State
 1500 11th Street
 Sacramento, California 95814
 (916) 653-3516

For Office Use Only

-FILED-

File No.: BA20231413505
 Date Filed: 9/7/2023

| | |
|---|---|
| Entity Details | |
| Limited Liability Company Name | GOOGLE LLC |
| Entity No. | 201727810678 |
| Formed In | DELAWARE |
| Street Address of Principal Office of LLC | |
| Principal Address | 1600 AMPHITHEATRE PARKWAY MOUNTAIN VIEW, CA 94043 |
| Mailing Address of LLC | |
| Mailing Address | 1600 AMPHITHEATRE PARKWAY MOUNTAIN VIEW, CA 94043 |
| Attention | Attn: Legal Dept. |
| Street Address of California Office of LLC | |
| Street Address of California Office | 1600 AMPHITHEATRE PARKWAY MOUNTAIN VIEW, CA 94043 |
| Manager(s) or Member(s) | |
| Manager or Member Name | Manager or Member Address |
| XXVI Holdings Inc. | 1600 Amphitheatre Parkway Mountain View, CA 94043 |
| Agent for Service of Process | |
| California Registered Corporate Agent (1505) | CORPORATION SERVICE COMPANY WHICH WILL DO BUSINESS IN CALIFORNIA AS CSC - LAWYERS INCORPORATING SERV Registered Corporate 1505 Agent |
| Type of Business | |
| Type of Business | TECHNOLOGY COMPANY |
| Email Notifications | |
| Opt-in Email Notifications | Yes, I opt-in to receive entity notifications via email. |
| Chief Executive Officer (CEO) | |
| CEO Name | CEO Address |
| Sundar Pichai | 1600 Amphitheatre Parkway Mountain View, CA 94043 |
| Labor Judgment | |
| No Manager or Member, as further defined by California Corporations Code section 17702.09(a)(8), has an outstanding final judgment issued by the Division of Labor Standards Enforcement or a court of law, for which no appeal is pending, for the violation of any wage order or provision of the Labor Code. | |

Electronic Signature

By signing, I affirm under penalty of perjury that the information herein is true and correct and that I am authorized by California law to sign.

Kenneth H. Yi

Signature

09/07/2023

Date